

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE DISTRICT OF SOUTH CAROLINA
ANDERSON/GREENWOOD DIVISION

Michael S. Hodge, #278832)	Civil Action No.: 8:08-3656-GRA-BHH
)	
Plaintiff,)	
)	
vs.)	<u>REPORT AND RECOMMENDATION</u>
)	<u>OF MAGISTRATE JUDGE</u>
Sgt. Kelvin Meyers, et. al.,)	
)	
Defendants.)	

The plaintiff brought this action seeking relief pursuant to Title 42, United States Code, Section 1983. On January 23, 2009, the defendants filed a motion for summary judgment. On January 23, 2009, pursuant to *Roseboro v. Garrison*, 528 F.2d 309 (4th Cir. 1975), the plaintiff was advised of the summary judgment procedure and the possible consequences if he failed to respond adequately. Despite this explanation, the plaintiff did not respond to the motion.¹

As the plaintiff is proceeding *pro se*, the court filed a second order on March 31, 2009, giving the plaintiff through April 23, 2009, to file his response to the motion for summary judgment. The plaintiff was specifically advised that if he failed to respond, this action would be dismissed for failure to prosecute. The plaintiff did not respond.

Based on the foregoing, it appears the plaintiff no longer wishes to pursue this action. Accordingly, it is recommended that this action be dismissed *with prejudice* for lack of prosecution and for failure to comply with this Court's orders, pursuant to Rule 41(b) of the Federal Rules of Civil Procedure and the factors outlined in *Chandler Leasing Corp.*

¹Rather than respond to the summary judgment motion, the plaintiff filed a motion to amend. (Dkt. # 24.) This motion was denied on March 31, 2009. (Dkt # 27.)

v. Lopez, 669 F.2d 919, 920 (4th Cir.1982). See *Ballard v. Carlson*, 882 F.2d 93 (4th Cir. 1989).

A handwritten signature in cursive script that reads "Bruce H. Hendricks". The signature is written in dark ink and is positioned above a horizontal line.

BRUCE H. HENDRICKS
UNITED STATES MAGISTRATE JUDGE

April 28, 2009
Greenville, South Carolina